

REMARKS

Applicant has carefully reviewed the Final Office Action mailed October 20, 2008 and offers the following remarks to accompany the above amendments.

Claims 35, 37-39, 41, and 43-58 were previously pending. Claims 1-34, 36, 40, and 42 were previously cancelled. Applicant cancels claims 54-58 herein. No claims are added. Accordingly, claims 35, 37-39, 41, and 43-53 remain pending.

Claims 35, 37-39, 41, and 43-58 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2005/0262204 A1 to Szeto et al. (hereinafter "Szeto"). Applicant respectfully traverses. For a reference to be anticipatory, the reference must disclose each and every claim element. Further, the elements of the reference must be arranged as claimed. M.P.E.P. § 2131. The requirement that each and every element be disclosed in the manner claimed is a rigorous standard that the Patent Office has not met in this case.

Applicant's invention relates to a first device that can obtain a playlist over a network, and direct a second device to receive or obtain a media item, such as a song, that is referenced in the playlist. Szeto neither teaches nor suggests a first device that can direct a second device to obtain or receive a media item.

Szeto discloses a combined Instant Messaging (IM) and media player application (IM player) (Szeto, Fig. 3 and para. 23). The IM player interfaces with an IM server for IM messages and a media server to obtain media (*Id.* at para. 16). Szeto discloses that a first user may allow the IM server to update a second user's IM player display with the name of a song being listened to by the first user (*Id.* at para. 27). The name of the song is preferably listed as a hyperlink on the second user's IM player (*Ibid.*). The second user may activate or otherwise click on the hyperlink to cause the song to be streamed to the second user's IM player (*Ibid.*). Notably, Szeto teaches that each user must actively request the song by affirmatively selecting the hyperlink. In direct contrast, Applicant's claimed invention directs or instructs a second device to obtain or receive the song. A user need not affirmatively select a hyperlink. In fact, Applicant's claimed invention can work with second devices with which a user could not affirmatively select a hyperlink, such as a stereo receiver, a television, and the like.

For example, Applicant's independent claim 35, among other limitations, requires "directing a second device to receive a media item identified by the at least one media item

identifier from a content server." Nowhere does Szeto disclose directing a second device to do anything, let alone directing a second device to receive a media item. The Patent Office refers to Szeto, Fig. 4, pgs. 4 and 5, and para. 34, for support for its contention that Szeto discloses the referenced limitation (Final Office Action mailed October 20, 2008, p. 3). However, as discussed above, Szeto merely discloses that a second device can receive a hyperlink that can be activated by a user. Applicant submits that the ability to receive a hyperlink in no way anticipates a first device directing a second device to receive a media item, such as a song. Similarly, Applicant's independent claim 48 requires "directing a second device to obtain a song identified by the song identifier." Applicant's comments regarding claim 35 are thus equally applicable to claim 48. Applicant's independent claim 53 requires "directing the at least one second device to send information representative of the at least one media item name to a content server, and to receive a media item corresponding to the at least one media item name from the content server." Thus, Applicant's claim 53 not only requires that the second device receive the media item, but also that the second device request the media item from the content server. Nowhere does Szeto disclose directing a second device to request a media item and receive a media item.

Notably, Applicant's claim 35 also requires that the first device download a list of plurality of playlist names. Nowhere does Szeto disclose that the IM player in Szeto is capable of downloading a plurality of playlist names. Rather, Szeto at para. 29 indicates that the first user can listen to a particular playlist. Applicant submits that an ability to listen to a playlist of songs does not anticipate an ability to receive a plurality of playlist names and to select a particular playlist therefrom. Applicant's claim 53 contains similar limitations regarding a device configured to display a list of playlist names, and enable a selection of one of the playlist names.

For the foregoing reasons, Applicant submits that claims 1, 48, and 53 are not anticipated by Szeto, and are therefore allowable. Claims 37-39, 41, 43-47, and 49-52 are dependent claims ultimately based upon claims 35, 48, and 53, respectively. As such, claims 37-39, 41, 43-47, and 49-52 are allowable for at least the same reasons set forth above with respect to claims 35, 48, and 53. However, Applicant reserves the right to further address the rejection of claims 37-39, 41, 43-47, and 49-52 in the future, if needed.

The present application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact Applicant's representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,
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